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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/405,176	09/24/1999	HIROYUKI SHINBATA	35.C13853	9205
5514	7590	04/12/2005		
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER KIM, CHONG R	
			ART UNIT 2623	PAPER NUMBER

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/405,176

Applicant(s)

SHINBATA, HIROYUKI

Examiner

Charles Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-43 and 49-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-43 and 49-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment and Arguments

1. Applicant's amendment filed on October 14, 2004 has been entered and made of record.
2. In view of applicant's amendment, the claim objections are withdrawn.
3. In view of applicant's amendment, the 112 first paragraph rejections with regards to claims 41-42, 44-53 are withdrawn.
4. In view of applicant's amendment, the 112 second paragraph rejections are withdrawn.
5. Applicant's arguments, see pages 11-14, with respect to the rejection(s) of claim(s) 41, 49, 51-53 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,732,149 ("Kido") and U.S. Patent No. 4,873,437 ("Nakajima") have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 U.S.C. 112 first paragraph, for which the details are provided below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 41-43, 49-54 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which

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was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claim 41, the phrase “calculating a statistic from the average pixel values that are within a certain range, including the coordinates in the object area determined in said determining step; forming a gradation conversion curve based on the statistic calculated in said statistic calculating step” in lines 11-15 is not sufficiently described by the applicant’s specification. The Examiner was unable to find an instance in the applicant’s specification that indicates that a statistic from the average pixel values (that are determined by the average pixel value calculating step and used to determine the coordinates of the object area, see claim 1, lines 5-10) is calculated, and a gradation conversion curve is formed based on the calculated statistic. The closest instance to this feature appears to be on pages 40-41 of the applicant’s specification. However, the cited portion of the applicant’s specification merely discloses that the average value of pixel values within the determined object area is used to form the gradation conversion curve. In view of pages 37-41 of the applicant’s specification, it appears that the average pixel value within the object area (that is used for the gradation conversion curve) is not the same as the average pixel values that are used to determine the coordinates of the object area. Therefore, the claimed features in lines 11-15 are not sufficiently described by the applicant’s specification. A similar rejection is applicable to claims 51-54.

Referring to claim 41, the phrase “wherein pixels in the object area are scanned in a y-axis direction to calculate the average pixel values in said average pixel value calculating step and a coordinate at which the average pixel values show a maximum or minimum is determined

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as a y-coordinate of the coordinates” in lines 18-21 is not sufficiently described by the applicant’s specification. The closest instance to this feature appears to be on pages 37-38 of the applicant’s specification. However, the cited portion of the applicant’s specification discloses that an x-coordinate of the object area is determined based on a maximum or minimum of the average pixel values scanned in the y-axis direction. The Examiner was unable to find support in the applicant’s specification that indicates a y-coordinate of the object area is determined based on a maximum or minimum of the average pixel values scanned in the y-axis direction. A similar rejection is applicable to claims 51-54.

Referring to claim 43, the phrase “wherein the average pixel values calculated in said calculating step are calculated by adding pixel values from one contour line of the object to the other contour line of the object in the y-axis direction, and dividing the added pixel vales by a number of pixels corresponding to the added pixel values” in lines 1-6 is not sufficiently described in the applicant’s specification. The closest instance to this feature appears to be on page 37, line 19-page 38, line 8 and page 46, lines 4-17. However, the cited portions of the applicant’s specification merely indicates that the pixels are scanned in the y-axis direction to calculate an average pixel value. The Examiner was unable to find support in the applicant’s specification that discloses that the pixel values from one contour line of the object to the other contour line of the object are added in order to calculate the average pixel values, as claimed. A similar rejection is applicable to claim 54.

Claimed not mentioned specifically are dependent from non-supported antecedent claims.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 41-43, 49-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 41, the phrase “y-coordinate of the coordinates” in lines 20-21 renders the claim indefinite because it is unclear what “the coordinates” means. It appears that the applicant intended the phrase to read “y-coordinate of the coordinates of the object area”.

Appropriate correction is required. A similar rejection is applicable to claims 51-54.

Claims not mentioned specifically are dependent from indefinite antecedent claims.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kim whose telephone number is 571-272-7421. The examiner can normally be reached on Mon thru Thurs 8:30am to 6pm and alternating Fri 9:30am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 571-272-7414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ck
April 7, 2005


Jon Chang
Primary Examiner